

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

HORTON HOMES, INC.

PLAINTIFF

VS.

2:07-cv-506-MEF

LARUE BANDY, ET. AL.,

DEFENDANTS

RESPONSE TO MOTION TO ADD DEFENDANTS

AND FOR STAY OF ARBITRATION

Come now Defendants Teal and McCullough, who respond to the motions filed by Plaintiff by saying as follows:

1. Defendants Teal and McCullough, separate and severally, do not interpose any objection to being added as defendants in the litigation pending before this Honorable Court.

2. The remaining defendants herein, separately and severally, interpose no objection to Teal and McCullough being added as defendants herein.
3. Defendants Teal and McCullough object to the imposition of any Order staying and enjoining the arbitration proceeding to be pursued by each respective party.
4. Defendants Teal and McCullough hereby designate, adopt and incorporate by reference in opposition to the Motion for Preliminary Injunction and/or Stay all evidence heard by this Honorable Court in the November 20, 2007 hearing in support of and in opposition to the petition for writ of injunction as to Defendant William Shaner.
5. After having heard the evidence at the November 20, 2007 hearing, this Court entered its Order dated December 26, 2007 granting the injunction and/or stay as to all proceedings as to all defendants except Defendant Shaner because of the parties' agreement to such a stay. However, based on the evidence offered at the hearing, this Court denied the stay and/or injunction as to Defendant Shaner, finding that Plaintiff had not produced sufficient evidence so as to establish a substantial likelihood of success on the merits of the Petition for Permanent Injunction.
6. Based on the same evidence offered at the November 20, 2007 hearing and consistent with this Court's Order dated December 26, 2007, this Court should

summarily deny Plaintiff's Motion for Stay and/or Preliminary Injunction and allow Defendants Teal and McCullough to proceed with their arbitration proceedings in accordance with the law and rules pertaining thereto.

WHEREFORE, Defendant Robert Jermome Teal, III and Defendant Larry C. McCullough respectfully pray that this Honorable Court will enter an Order denying Plaintiff's motion for stay and/or preliminary injunction and grant to your Defendants such other, further and different relief as may be just and appropriate.

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CERTIFICATE OF SERVICE

I hereby certify that I have on this the 2nd day of April, 2008, filed the above document electronically with the CM/ECF E-Filing System in Federal District Court. The below counsel will receive a copy from the system via e-mail if registered in the system. If not, I certify that I have placed a copy of the same in the U.S. Mail this day to:

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